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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

BRIAN FEDERICO and  
KEVIN LANEY,

Defendants.

Case No. CR 12-00862 YGR

STIPULATION AND ~~PROPOSED~~ ORDER  
CONTINUING PRETRIAL CONFERENCE AND  
EXCLUDING TIME UNDER THE SPEEDY TRIAL  
ACT TO JANUARY 10, 2018  
[\* AS MODIFIED BY THE COURT\*]

Plaintiff United States of America and defendants Brian Federico and Kevin Laney, by and  
through their respective counsel of record, hereby stipulate as follows:

1. On October 15, 2018, the parties had a status conference before the Court in this action.  
At the status conference, the Court set this matter for jury trial to commence on either August 19, 2019,  
or August 26, 2019, with jury selection to begin on August 21, 2019, in the event of an August 26, 2019  
trial date.

2. At the status conference the Court also set the matter for an initial pretrial conference on  
December 6, 2018, with a joint pretrial statement due to be filed a week in advance of the conference.

STIPULATION AND ~~PROPOSED~~ ORDER  
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1 The Court specifically instructed the parties to include in the joint pretrial statement a proposed briefing  
2 schedule for any motion regarding bifurcation, with any such motions to be filed by January 2019.

3 3. Following the status conference and setting of the pretrial conference, government  
4 counsel of record, Assistant U.S. Attorney William Gullotta, departed the Oakland Branch office for a  
5 new position in the Department of Justice. Assistant U.S. Attorney Thomas R. Green substituted into  
6 the case as new government trial counsel for this matter on or about November 8, 2018. AUSA Green  
7 has a long planned vacation during the week of December 3, 2018, and is scheduled to be out of the  
8 district on vacation during the presently scheduled pretrial conference of December 6, 2018.

9 4. Martha Boersch, trial counsel for Mr. Laney, is also unavailable the week of December 3,  
10 2018, as she is scheduled to be in Washington, D.C. until Friday of that week for a matter pending  
11 before the Securities and Exchange Commission.

12 5. The parties have met and conferred regarding possible new dates for the pretrial  
13 conference and are jointly proposing that the conference be continued to January 10, 2019, with a Joint  
14 Pretrial Statement to be filed by January 3, 2019. All parties are available on January 10, 2019, and  
15 continuing the conference by approximately one month will give the parties additional time to meet and  
16 confer regarding the substance of the Joint Pretrial Statement, including the briefing schedule for any  
17 possible motion for bifurcation to be filed by one or more of the defendants.

18 6. If the parties are not able to reach an agreement on the merits of bifurcation in advance of  
19 any such motion, they will propose a briefing schedule for any motion(s) to sever, or competing briefing  
20 schedules in the absence of an agreement, in the Joint Pretrial Statement to be filed a week in advance of  
21 the pretrial conference.

22 7. Counsel for both defendants are also relatively new to the case, as neither counsel for Mr.  
23 Federico nor Mr. Laney represented their respective client during the original bench trial in this action.  
24 As a result, counsel for the government and counsel for both Mr. Federico and Mr. Laney are in the  
25 process of reviewing the evidence underlying the counts against each defendant, including extensive  
26 discovery produced by the government. Counsel for each defendant needs additional time to prepare for  
27 the pretrial conference and the trial(s) anticipated in August 2019.

28 8. For these reasons, the parties also stipulate to exclude the time between December 6,

2018, and January 10, 2019, from the time in which the defendants must be brought to trial pursuant to the Speedy Trial Act, 18 U.S.C. § 3161 *et seq.* The parties agree that time has already been excluded through the presently scheduled December 6, 2018 pretrial conference. The government has produced substantial discovery in this case. Defense counsel continues to review the discovery produced and needs additional time to consider the evidence and review the evidence with the defendant. Therefore, the parties agree that the time period from December 6, 2018, through January 10, 2019, inclusive, should be excluded pursuant to 18 U.S.C. §§ 3161(h)(7)(A) and (h)(7)(B)(iv), on the basis that the ends of justice served by the continuance outweigh the best interests of the public and defendant in a speedy trial. Failing to exclude this time would deny counsel the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

9. At the October 15, 2018 status conference, the Court granted Mr. Sugarman's request that Mr. Laney need not appear at the next scheduled court hearing and Mr. Laney could appear through counsel. The parties stipulate that Mr. Laney, who lives in Montana, is excused from appearing at the pretrial conference.

IT IS SO STIPULATED.

Dated: November 28, 2018

ALEX G. TSE  
United States Attorney

/s/ Thomas R. Green  
THOMAS R. GREEN  
Assistant United States Attorney

Dated: November 28, 2018

/s/ Matthew Dirkes  
MARTHA BOERSCH  
MATTHEW DIRKES  
Attorneys for Defendant Brian Federico

Dated: November 28, 2018

/s/ Scott Sugarman  
SCOTT SUGARMAN  
Attorney for Defendant Kevin Laney

1 **ORDER**

2 Based upon the stipulations and representations of counsel, and for good cause shown, the Court  
3 finds that failing to exclude the time between from December 6, 2018, through January 10, 2019, would  
4 deny counsel the reasonable time necessary for effective preparation, taking into account the exercise of  
5 due diligence. 18 U.S.C. § 3161(h)(7)(B)(iv). The Court further finds that the ends of justice served by  
6 excluding the time from December 6, 2018, through January 11, 2019, from computation under the  
7 Speedy Trial Act, outweigh the best interests of the public and the defendant in a speedy trial.  
8 Therefore, **IT IS HEREBY ORDERED** that the matter is set before this Court **on FRIDAY,**  
9 **JANUARY 11, 2019 AT 9:00 a.m.** for a pretrial conference, and that the time from December 6, 2018,  
10 through January 11, 2019, shall be excluded from computation under the Speedy Trial Act. 18 U.S.C.  
11 §§ 3161(h)(7)(A) and (B)(iv). The parties are further ordered to file a Joint Pretrial Statement by  
12 **January 4, 2019**, in advance of the pretrial conference, that includes a briefing schedule for any motion  
13 for bifurcation either defendant intends to bring in advance of trial. Mr. Laney is excused from  
14 appearing at the pretrial conference on January 11, 2019.

15  
16  
17 DATED: November 29, 2018

  
THE HONORABLE YVONNE GONZALEZ ROGERS  
United States District Judge